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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/903,944	07/31/1997	TAU-SAN CHOU	089166/0107	3007

20306 7590 05/21/2003

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EXAMINER

FOX, DAVID T

ART UNIT PAPER NUMBER

1638

DATE MAILED: 05/21/2003

39

Please find below and/or attached an Office communication concerning this application or proceeding.



**UNITED STATES DEPARTMENT OF COMMERCE**

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**Commissioner of Patents and Trademarks**

Art Unit: 1638

The reply filed on 7 February 2003 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

The amendments of 7 February 2003 are not in compliance with either the current version of 37 CFR 1.121(c) or the proposed revisions thereto. The amendment of 7 February 2003 provided both a clean copy and a marked-up copy, in accordance with the current version of Rule 121. However, the marked-up copy contained strikethroughs instead of brackets to indicate deleted material. The marked-up copy appears to follow the proposed revision of 37 CFR 1.121(c) as set forth in the 25 February 2003 edition of the Official Gazette. Applicants are notified that under that revision, only a single copy of an amendment is required.

Furthermore, and more substantively, the marked-up copy and clean copy of the amendment do not agree, so that the Examiner cannot ascertain what was intended to be claimed. For example, the marked-up copy of claim 1 indicates that the claim was amended three times, and merely inserts --further comprising-- before "NH4+" in line 2 of part (b), which would have addressed the outstanding rejection of that claim under 35 USC 112, second paragraph, without otherwise changing the claim scope. In contrast, the clean copy of claim 1 indicates that it had been amended four times (which is correct), but in part (b) all specific chemical compounds have been deleted, and the claim merely recites that "a nitrogen source" was used; thus raising new issues of enablement under 35 USC 112, first paragraph, and also affecting the art rejection. In addition, in claim 39, part (h)(ii), *Agrobacterium tumefaciens*-mediated transformation has been deleted in the marked-up copy, while the clean copy of the claim does not reflect this change.

Art Unit: 1638

This is a substantive change as well, since the clean copy would still have been subjected to the rejections under 35 USC 112, first paragraph regarding methods of transformation, while the marked-up copy would no longer have been rejected under these grounds. See 37 CFR 1.111.

Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment.

**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David T. Fox whose telephone number is (703) 308-0280. The examiner can normally be reached on Monday through Friday from 10:30AM to 7:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson, can be reached on (703) 306-3218. The fax phone number for this Group is (703) 872-9306. The after final fax phone number is (703) 872-9307.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

May 16, 2003

DAVID T. FOX  
PRIMARY EXAMINER  
GROUP 100-1638

*David T. Fox*